

MT LEGISLATIVE HISTORY

14

Chapter 320 1981

Bill H (S) 246

Original bill & hist. ✓C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Mar 19 ✓C

Hearing Date(s) Feb 16 ✓C

Mar 26 ✓C

Feb 20 ✓C

 C

 C

 C

 C

Date Out C

Feb 20 ✓C

Did this bill originate in an interim committee? Yes No

Committee

Report

STATE OF MONTANA

REQUEST NO. 209-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 23, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 245 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act to generally revise and clarify the laws relating to health and family. To be more specific, clarification has been made to the tests required for marriage applicants; to improve on the description of a "dissolution of marriage"; to increase the fees charged for issuance of certain certified vital statistics documents; to require a court order for persons to see original birth records; and to establish the date due of certain records from county clerks of court.

Assumptions

1. A 10% reduction of certified copies will be realized due to the increased cost.
2. The Department of Health and Environmental Sciences will be appropriated earmarked funds to hire a new FTE to update the backlog in the index activity. The most immediate task will be to verify records that are already keypunched.

Fiscal Impact

Revenue: Proposed increase in general fund will be \$30,000 in 1982 and \$31,500 in 1983. These funds will remain in the general fund and will be made available to the state of Montana.

The anticipated activity level will be 15,000 records in 1982, and 15,750 records in 1983. At the rate of \$1 per record, a corresponding amount of earmarked funds will be made available to the Montana State Department of Health and Environmental Sciences and the plan for expenditure is as follows:

	<u>FY 1982</u>	<u>FY 1983</u>
Salary, Grade 7, Step 2, Records Technician	\$10,500	\$11,500
Benefits	1,900	2,200
Supplies - data processing	300	300
Data supplies - Department of Administration	<u>2,300</u>	<u>1,750</u>
Total Expenditures	\$15,000	\$15,750

These expenditures will offset the money deposited in the earmarked fund for a net result of \$0.

Lytle Manley, for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-28-81

SENATE BILL NO. 246

INTRODUCED BY STORY

IN THE SENATE

January 23, 1981	Introduced and referred to Committee on Judiciary.
February 20, 1981	Committee recommend bill do pass as amended. Report adopted.
February 21, 1981	Bill printed and placed on members' desks.
February 23, 1981	Second reading, do pass.
February 24, 1981	Correctly engrossed.
February 25, 1981	Third reading, passed. Ayes, 48; Noes, 0. Transmitted to House.

IN THE HOUSE

March 2, 1981	Introduced and referred to Committee on Judiciary.
March 27, 1981	Committee recommend bill be concurred in. Report adopted.
March 28, 1981	Second reading, concurred in.
March 30, 1981	On motion rules suspended and bill allowed to be transmitted on 71st legislative day. Motion adopted.
March 31, 1981	Third reading, concurred in. Ayes, 84; Noes, 15.

IN THE SENATE

April 1, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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Sen. Story BILL NO. *246*

INTRODUCED BY *Sen. Story*

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT
REPLACEMENT VALUE OF A MOTOR VEHICLE BE THE MEASURE OF
DAMAGES IN CERTAIN CASES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. When replacement value to be allowed. The
measure of damages in a case in which the cost of repairing
a motor vehicle exceeds its value shall be the replacement
value of the motor vehicle.

Section 2. Codification instruction. Section 1 is
intended to be codified as an integral part of Title 27,
chapter 1, part 3, and the provisions of Title 27, chapter
1, part 3, apply to section 1.

-End-

INTRODUCED BILL

SB 246

COMMITTEE ON JUDICIARY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
SB 246	1/23/81	2/16/81	2/20/81			2/20/81			
SB 253	1/23/81	2/16/81	2/20/81			2/20/81			
SB 265	1/26/81	2/12/81	2/14/81			2/14/81			
SB 267	1/26/81	2/13/81	2/14/81			2/14/81			
SB 268	1/26/81	2/12/81	2/12/81			2/12/81			
SB 272	1/26/81	2/13/81	2/20/81			2/20/81			
SB 277	1/26/81	2/16/81	2/18/81			2/18/81			
SB 286	1/26/81	1/30/81	2/05/81			2/05/81			
SB 287	1/26/81	2/12/81	2/19/81			2/19/81			
SB 288	1/27/81	2/03/81	2/18/81	2/18/81					
SB 289	1/27/81	2/17/81	2/19/81			2/19/81			
SB 290	1/27/81	2/17/81	2/18/81	2/18/81					
SB 305	1/28/81	2/06/81	2/06/81	2/06/81					
SB 306	1/28/81	2/06/81	2/06/81	2/06/81					
SB 308	1/28/81	2/06/81	2/06/81	2/06/81					
SB 309	1/28/81	2/09/81	2/11/81			2/11/81			

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 16, 1981

The twenty-ninth meeting of the Senate Judiciary Committee was called to order by Jesse O'Hara, Vice Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 246:

REQUIRING REPLACEMENT VALUE OF A MOTOR
VEHICLE TO BE THE MEASURE OF DAMAGES.

Senator Story presented the bill and said that it addresses the situation in which a vehicle is totaled. Under this bill, total compensation would have to be made, even if the vehicle were worth more in value than current book price.

Senator Mazurek asked for a more precise definition of "replacement value" in the case of an immaculately preserved older car. Senator Story replied that it only meant something that is as good as what they had before -- not necessarily a new vehicle.

CONSIDERATION OF SENATE BILL 253:

TO AMEND THE LAWS RELATING TO CHILD
ABUSE/NEGLECT AND PROTECTIVE SERVICES.

Senator Regan introduced the bill at the request of the Social and Rehabilitation Services. She stated that the major change from current law could be seen in subsection (d) on page 4, and that the changes therein would conform statute with case law.

Burt Annin, of the S.R.S. confirmed that the major change is the definition of abandonment, and offered a written amendment with the sponsor's approval (marked Exhibit A and attached to these minutes). He also left an explanatory sheet (marked Exhibit B and attached to these minutes).

Senator Mazurek expressed a concern that this bill might make it too easy to terminate the parents' rights. Mr. Annin responded that it would be no easier than it is now.

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/16/81

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 20, 1981

The thirty-third meeting of the Senate Judiciary Committee was called to order by Jess O'Hara, Vice Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

DISPOSITION OF SENATE BILL 272:

Senator Mazurek moved that the bill be amended according to the attached Committee Report. His motion carried unanimously. He then moved that the bill DO PASS AS AMENDED, and this motion carried unanimously.

DISPOSITION OF SENATE BILL 246:

Senator Mazurek moved to amend the bill as shown on the attached Committee Report, and his motion carried unanimously. Senator Olson moved that the bill DO PASS AS AMENDED, and this motion carried unanimously.

DISPOSITION OF SENATE BILL 253:

Senator Mazurek moved that the bill be amended as shown on the attached Committee Report. His motion carried over Senator Olson's opposition. Senator Berg moved that the bill DO PASS AS AMENDED, and this motion carried with Senator Olson opposing.

DISPOSITION OF SENATE BILL 240:

David Niss outlined the areas of the bill in which he felt there were problems and conflicts. Following discussion on the points he raised, Senator Olson moved that the bill receive a DO PASS AS AMENDED, with David doing the amending. Senator Anderson made a substitute motion that the bill do pass as amended, with David Niss working with Senators Mazurek and Anderson on the amendments. This motion passed unanimously. Senator Berg then moved that this action be reconsidered in order to consider the two amendments presented by the State Insurance Department. His motion passed unanimously. Senator Berg moved adoption of the two amendments, and this motion passed unanimously. Senator Olson then moved that the bill do pass as amended, and his motion passed over Senator Mazurek's objection.

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date Feb 20, 1981

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

February 19.....

MR. PRESIDENT:.....

We, your committee on.....JUDICIARY.....

having had under consideration.....SENATE Bill No. 246.....

Respectfully report as follows: That.....SENATE Bill No. 246.....
be amended as follows:

1. Line 11.
Following: "the"
Insert: "actual".
2. Line 12.
Following: "vehicle"
Insert: "rather than its "book value""
3. Following: line 12
Insert: "Actual replacement value is the actual cash value of the
motor vehicle immediately prior to the damage."

And, as so amended,

DO PASS

JUDICIARY

COMMITTEE

47 Legislature

SENATE BILLS

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
219	Amending 46-18-201 to generally revise sentencing laws.	3/2/81	Towe	3/23/81	Do Pass as Amended 3/26/81	3/26/81
238	Providing court costs and attorney fees to a successful plaintiff in action involving vehicle ownership, use-etc.	3/2/81	Story	3/20/81	Do Pass as Amended 3/25/81	3/25/81
240	Establishing standards for collection, use and disclosure of information gathered in insurance transactions.	3/2/81	Hazelbaker	3/20/81	Do Pass as Amended 3/24/81	3/24/81
246	Requiring replacement value of a motor vehicle to be the measure of damages.	3/2/81	Story	3/19/81	Do Pass 3/26/81	3/26/81
253	To amend the laws relating to child abuse/neglect and protective services.	3/2/81	Regan	3/20/81	Do Pass as Amended 3/27/81	3/27/81
272	Generally revising the procedures for the issuance of a warrant for distraint by the Department of Revenue.	3/2/81	Mazurek	3/23/81	Do Pass As Amended 3/28/81	3/28/81

General. MAYNARD replied the Attorney General has supervisory control presently. Under this proposal it would be included in the same way as county attorney.

REP. KEYSER wondered why the county attorneys did not testify for the bill. TOM HONZEL, County Attorneys, stated he was for the resolution, but because he was in another committee he was not able to testify in time. HONZEL stated there have been attempts to come up with a better system. County attorneys do not have recourse for this. County attorneys have both civil and criminal responsibilities. This study would be an attempt to separate those two things. There is a great disparity in the caseloads. A parttime county attorney may receive a big case every ten years. In Roosevelt County there have been two big cases in just a few months. There should be a system that is able to respond to those situations. Service is not being derived as it should.

The Senator felt this study would be well received.

SENATE BILL 246 SENATOR STORY, chief sponsor, stated this bill is to require replacement value of a motor vehicle to be the measure of damages. If a vehicle is totalled and someone is responsible for its loss they should pay enough money for the value of the car. If you buy a new car and drive it off the lot and someone hits you, the insurance company wants to pay the value of a used car. Automatically \$1,500 is taken off the price of the car.

Older cars are usually driven by the elderly. They might have a car they love that they have had for years. The car might be worth more than the book value. This bill would protect the people. They should be given enough money to compensate their loss.

WILLIAM ROMINE, representing the Wrecking Yards, was in support of the bill. EXHIBIT 3.

There were no further proponents.

There were no opponents.

The Senator closed the bill.

REP. HANNAH asked if this would impact the cost of insurance. The Senator replied insurance companies will probably have a slight increase. By not having the bill it is asking the victim to subsidize the other cars. REP. HANNAH felt all other people will be

required to subsidize the victim. He questioned how the value of a ten year old car would be established. SENATOR STORY replied it would be arbitrated with the adjustor.

REP. KEEDY asked how this would drive up costs if they are already in the books. ROMINE replied when a person has a comprehensive and liability policy and is hit he is protected because of the policy. Under the present law there is coverage up to \$10,000 worth of property damage. The Senator stated if a car is totalled someone will be out the difference; the question is should it be the victim or the one who did the damage who pays.

REP. KEEDY asked if an older car that is off the books is hit under the present law what happens. ROMINE replied he would anticipate that the owner would go to a used car dealer. The car dealer would have the market value of the older car. Market value would be established rather than book value. If the car is unique and a classic a court of law would probably establish the value.

SENATE BILL 277 SENATOR VAN VALKENBURG, sponsor, stated this bill is designed to limit placement of individuals under supervision of the Department of Institutions. Probation and parole would only be by district judges. Presently the law permits justices of the peace to place people under the supervision of probation and parole. This is financially bad for the Department of Institutions. The situation is expanding.

CURT CHISHOLM, Department of Institutions, was in support of the bill. The magistrates and justices of the peace convict thousands of these people. If the department has to supervise all of them it will codify the problem.

There were no further proponents.

There were no opponents.

In closing, SENATOR VAN VALKENBURG stated the bill was not well drafted. It would have prevented judges from suspending sentences; that was corrected in the Senate.

REP. KEEDY stated the title suggests it would prevent justices of the peace from placing offenders on probation. The Senator responded that the title is misleading. REP. HUENNEKENS stated the bill is almost opposite from the title. He felt this was violating the rules of the legislature. The Senator responded the bill was improperly

NAME: William L. Famine DATE: 3-19-81ADDRESS: Box 1891 HelenaPHONE: 442-2220REPRESENTING WHOM? Wrecking YardsAPPEARING ON WHICH PROPOSAL: S.B. 246DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: This bill will be a benefit to the owner of the older
well maintained auto and the owner of the auto which is
less than one year old. If either vehicle is totalled, under
the present system the owner will be offered its Book
Value. The older vehicle may be worth substantially more
than its book value. The almost new car is generally
replaceable with a new car. Under this bill, the owner
will receive the actual cash value of the auto.

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

SENATE

BILL 246

Date 3/19/81

SPONSOR Story

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

SENATE BILL 222 REP. CURTISS moved the committee reconsider action on the bill for purpose of amendments. EXHIBIT 6. The motion resulted in a roll call vote. Those voting yes were: KEYSER, SEIFERT, CURTISS, HANNAH, IVERSON, MATSKO, MCLANE, and ANDERSON. Those voting no were: BENNETT, CONN, EUDAILY, DAILY, HUENNEKENS, SHELDEN, KEEDY, TEAGUE and BROWN. The motion failed 9 to 8.

SENATE BILL 246 REP. BROWN moved do pass.

REP. BROWN stated he would prefer to take chances that estimates from an insurance company would be better than the bluebook.

REP. HANNAH spoke against the motion. This will effect the cost of insurance. The establishing of value of a wrecked car will be a source of argument.

REP. MATSKO stated his car was worth \$300-\$500 dollars book value. With 4-wheel drive equipment, however it could be sold for \$800-\$1,000. Yet the insurance company would settle for \$300-\$500 dollars.

REP. TEAGUE asked who determines the value of the car. It was answered the insurance company of the owner. There are no real guidelines. REP. CONN stated many people who drive older cars believe the car is worth more than book value. It is valuable to them and an investment.

REP. HANNAH stated no matter how much money is placed into the car the value will not go up. The insurance company should not have to pay you that. REP. DAILY stated they would pay the replacement value of the motor vehicle.

The motion of do pass carried with HANNAH, TEAGUE, and SHELDEN voting no. REP. BROWN was assigned to carry the bill.

SENATE BILL 288 REP. KEEDY moved do pass. REP. KEEDY moved the amendments be adopted as in EXHIBIT 7. REP. KEEDY stated the bill is intended to open up proceedings of judicial standards to public scrutiny yet it really does not. With the proposed amendments it will allow public access for each charge with probable cause. This will broaden the bill. This will open up to the public hearings before the supreme court to make a recommendation. REP. DAILY questioned if there would be less hearings because of it. REP. KEEDY did not think it was possible.